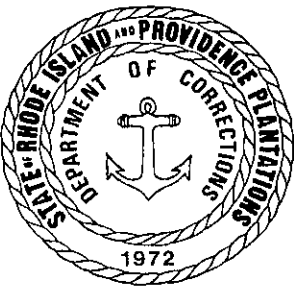



RHODE ISLAND DEPARTMENT OF CORRECTIONS

POLICY AND PROCEDURE

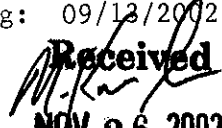
	POLICY NUMBER: 3.03-3 DOC	EFFECTIVE DATE: 12/16/02	PAGE 1 OF 20
	REPEALS: 3.03-2 DOC	DIRECTOR: 	
SECTION: PERSONNEL		SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10(22), Powers of the director; § 28-5.1-1 et seq., Equal opportunity and Affirmative Action; § 28-5-1 et. seq., Fair Employment Practices; § 36-4-1 et. seq., State Merit System Law; Americans with Disabilities Act of 1990; Executive Order 95-11, Sexual Harassment in the Workplace; Executive Orders 96-11, Re: Equal Opportunity and Affirmative Action; 93-1, Affirmative Action Policy Statement; 91-39, Sexual Harassment; Veterans' Employment Emphasis Under Federal Contracts 38 U.S.C. § 4212, § 29 U.S.C., § 794, Nondiscrimination under Federal grants and programs; State Personnel Rules and Regulations, PR-3.092 - 3.096; Rhode Island Constitution Article 1, Section 2			
REFERENCES: ACA Standards # 3-4053 (Equal Employment Opportunity); 3-4053-1 (Reasonable accommodation); RIDOC policy # 3.06-2 DOC, Selection, Retention, and Promotion; 3.05-3 DOC; Sexual Harassment; 9.47-1 DOC, Workplace Conflict/Violence			
INMATE / PUBLIC ACCESS?		X YES	
AVAILABLE IN SPANISH?		X NO	

I. PURPOSE:

To specify guidelines and procedures for administering a program of equal employment opportunity and affirmative action consistent with all governing Federal and State statutes, rules, regulations, and executive orders.

Date of Public Notice: 08/11/2002

Date of Public Hearing: 09/13/2002


Received
NOV 26 2002
Secretary of State
Administrative Records

II. POLICY:

- A. The Rhode Island Department of Corrections (RIDOC), in accordance with Rhode Island General Law §28-5.1-1 et. seq. has established an Equal Employment Opportunity/ Affirmative Action policy. This policy applies in all areas where the Department dollar is spent.
- B. RIDOC does hereby reaffirm its policy of equal employment opportunity for all qualified applicants and employees regardless of race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, country of ancestral origin, or other status protected by law. All programs, training, activities, management practices, all phases of employment--including recruitment, selection, retention, placement, salary/wage, leave, lay-offs, transfers, recall from lay-offs, promotions, and discipline--and all other personnel actions by RIDOC are administered in a manner consistent with the intent of this policy.
- C. RIDOC, in accordance with Executive Order 93-1 (Equal Opportunity and Affirmative Action Policy), reaffirms its commitment to demonstrating positive results in the employment, appointment, and delivery of services to racial/ethnic minorities, women, and the handicapped. In addition, RIDOC continues to strive to prevent and eliminate harassment by supervisors or co-workers on the basis of race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, country of ancestral origin, or other status protected by law.
- D. All managers and supervisors, and ultimately the Corrections Director, are directly responsible for the implementation of this policy.

III. PROCEDURES:

- A. Equal Employment Opportunity/ Affirmative Action Officer:

An Equal Employment Opportunity/Affirmative Action Officer (hereinafter referred to as EEO/AA Officer) is appointed by the Corrections Director. S/he reports to the Director or designee. The EEO/AA Officer assists in the annual development, semi-annual review, and enforcement of RIDOC's Affirmative Action Plan and overall commitment to equal employment opportunity/affirmative action. (For specific duties of EEO/AA Officer, see sections III.C. and D.)

1. The designated EEO/AA Officer attends equal opportunity training sessions as required and provided by the State's Equal Employment Opportunity Office.

B. State Equal Opportunity Office Liaison:

The State Equal Opportunity Office of the Rhode Island Department of Administration, assigns an Equal Opportunity Officer as Liaison to RIDOC. S/he serves as a resource and advisor to RIDOC in all matters pertaining to Equal Employment Opportunity and Affirmative Action, including the development, review, and enforcement of RIDOC's Affirmative Action Plan and overall commitment to equal employment opportunity/affirmative action.

C. Equal Opportunity Advisory Committee:

An Equal Opportunity Advisory Committee (hereinafter referred to as the Committee) is established, consistent with State Equal Opportunity Office policy. The Committee is responsible for assisting in the preparation and review of RIDOC's Affirmative Action Plan, as well as making recommendations to the Director or designee regarding improvements to RIDOC's ongoing equal employment opportunity/affirmative action efforts.

1. Application Process:

- a. Membership is voluntary.
- b. RIDOC's EEO/AA Officer informs all managers of the application period. Managers are responsible for disseminating this information to all subordinates.
- c. Interested persons complete Equal Opportunity Advisory Committee Application Forms (Attachment 1), available from RIDOC's Office of Human Resources, and forward them to the EEO/AA Officer.
- d. The EEO/AA Officer sends a consolidated list of Committee applicants to the Director or designee for review and approval.
- e. Once approved, the EEO/AA Officer sends a memorandum to all managers and Committee members informing them of Committee appointments.

2. Membership:

- a. The members of this Committee serve 2-year terms.
- b. Memberships are not limited to any specific number of terms. Interested employees may reapply for membership as often as they desire.
- c. Committee members may be removed by the Corrections Director for reasons including, but not limited to, those found in the Committee's by-laws.

3. Functions/Duties:

- a. The Associate Director of Human Resources or designee, the EEO/AA Officer, and the State Equal Opportunity Officer Liaison serve as resources and advisors to the Committee.
- b. The Committee confers with the Director or designee, the Department's EEO/AA Officer, State Equal Opportunity Officer Liaison, and the Associate Director of Human Resources or designee on all matters pertaining to Equal Opportunity and Affirmative Action.
- c. The Committee elects a Chairperson, whose duties include maintaining order, assuring fair participation from all members, and ensuring the Committee adheres to the agenda.
- d. The Committee elects a Secretary, who is responsible for preparing and distributing an agenda prior to each meeting and maintaining minutes of meetings.
 - 1. The Secretary sends meeting minutes to all Committee members, the State Equal Opportunity Office, and Corrections Director.
- e. The Committee convenes as required to develop an Affirmative Action Plan in accordance with RIGL § 28-5.1-1 et seq. and State Equal Opportunity Office guidelines, evaluate the progress of the goals/objectives stated in the Plan, and discuss any other equal

opportunity issues within RIDOC which may impact the Affirmative Action Plan. (See section III.E., Affirmative Action Plan.)

D. Comprehensive Equal Opportunity/Affirmative Action Program:

RIDOC's Affirmative Action Committee, Associate Director of Human Resources or designee, and EEO/AA Officer are responsible for developing, implementing, and monitoring a comprehensive Equal Opportunity and Affirmative Action Program. In accordance with State Merit System Law and Personnel Rules and Regulations, and in keeping with the goals/objectives of the Affirmative Action Plan, RIDOC takes affirmative steps to recruit and refer members of protected groups for Departmental vacancies.

1. The EEO/AA Officer, in consultation with the Associate Director of Human Resources (or designee) and the Equal Opportunity Advisory Committee, is responsible for developing RIDOC's Affirmative Action Plan, as described in section III. E., below.
2. In addition, the EEO/AA Officer, in consultation with the Associate Director of Human Resources (or designee), is also responsible for:
 - a. Posting notices of training sessions and encouraging employees to participate.
 - b. Publicizing internally the State's policy and procedures for processing discrimination grievances.
 - c. Investigating discrimination complaints and following them through to satisfactory resolutions.
 - d. Counseling employees regarding their equal employment opportunity/affirmative action rights and responsibilities under governing Federal and State statutes, as well as RIDOC policies and procedures.
 - e. Serving as a resource for employees regarding upward mobility/career ladders.
 - f. Notifying the State Equal Opportunity Office Liaison of all job vacancies.

- g. Reviewing Federal and State equal opportunity laws, rules and regulations to ensure compliance in all phases of employment activities.
- h. Communicating/reporting weekly, monthly, and quarterly to the State Equal Opportunity Office, R.I. Department of Administration, regarding personnel actions, including persons hired, disciplined, terminated, promoted, transferred, and vacancies occurring within the Department.

E. Affirmative Action Plan:

1. RIDOC prepares an annual Affirmative Action Plan (AAP), in accordance with the criteria and deadlines set forth by the State Equal Opportunity Office, R.I. Department of Administration.
 - a. All managers and supervisors are responsible for working with the Department's Equal Opportunity Advisory Committee, Office of Human Resources, the State Equal Opportunity Liaison, and the EEO/AA Officer in the development of goals and timetables for affirmative actions.
2. The responsibility for coordinating the overall Affirmative Action Plan (AAP) rests with the EEO/AA Officer, in consultation with the Associate Director of Human Resources (or designee) and Equal Opportunity Advisory Committee. S/he will:
 - a. Develop a policy statement and AAP based on the current work force analysis, which is provided by the Office of Human Resources.
 - b. Implement and monitor the AAP.
 - c. Monitor and evaluate the Plan on an ongoing basis for attainment of goals/objectives.
 - d. Make suggestions to the Director or designee regarding possible improvements to the Department's equal employment opportunity/affirmative action efforts.

3. The Committee convenes as required to develop the Department's AAP in accordance with RIGL §28-5.1-3 and State Equal Opportunity Office guidelines.
 - a. The Department's EEO/AA Officer, the Associate Director of Human Resources or designee, and the State Equal Opportunity Office Liaison regularly attend Committee meetings and serve in a resource and advisory capacity.
4. Once the AAP is developed, the Committee Chairperson submits a draft of the Affirmative Action Plan to the Director or designee for review and approval.
 - a. The Director retains ultimate responsibility for the contents of the Plan and may override the Committee's recommendations/decisions at any time.
5. In accordance with RIGL §28-5.1-3 and State Equal Opportunity Office guidelines, the Department's AAP for the upcoming fiscal year is submitted to the State Equal Opportunity Office and the State House Fiscal Advisor. In addition, a copy of the Plan is forwarded to the Speaker of the House's Office, as directed annually by the State Equal Opportunity Office.
 - a. In accordance with RIGL §28-5.1-3, the Evaluation portion of the AAP contains sufficient data so as to enable the State Equal Opportunity Office and the House Fiscal Advisor to determine whether RIDOC has attained the hiring goals contained in its AAP for the previous fiscal year.
6. The Committee continues to meet as required to prepare and submit (a) progress report(s) to the Director or designee on the attainment of goals/objectives stated in the Affirmative Action Plan.

F. Formal Grievances/Complaints Regarding Discrimination:

1. RIDOC accepts complaints and employee grievances regarding issues of discrimination that are based on race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, country of ancestral origin, or other status protected by law, and sexual harassment.

2. It is an employee's or applicant's prerogative to file **either** an internal (RIDOC) complaint or one with an appropriate external agency.
3. For procedures relating to complaints of sexual harassment, please see policy 3.05-3 DOC, Sexual Harassment, or its successor.
4. For procedures relating to complaints that do not relate to status in a protected class, please see policy 9.47-1 DOC, Workplace Conflict/Violence, or its successor.
5. Internal Complaints
 - a. The aggrieved employee may opt to submit a written complaint to:
 - (1) his/her immediate supervisor; or
 - (2) next level in the chain of command (if complaint is against immediate supervisor); or
 - (3) Department's EEO/ AA Officer.
 - b. Applicants (i.e., persons not already employed by the RIDOC) must file (internal) complaints with RIDOC's EEO/ AA Officer.
 - c. While initial notification may be verbal, written reports are required of all complainants and witnesses, as soon as practicable.
 - d. Any supervisor or manager who receives a complaint must take preventive or corrective action without delay, to include recommending disciplinary action.
 - e. The supervisor/manager who receives such a complaint notifies the facility/unit manager(s) unless that manager is the accused.
 - f. The Associate Director of Human Resources, Chief Legal Counsel, and/or their designees assist supervisors/managers, as requested.
 - g. The supervisor/manager shall conduct an investigation into the alleged incident/conduct.

- (1) Reference policy # 3.22 DOC, Union Representation in Employee Investigatory Interviews or its successor.
- (2) The response of a supervisor/manager/administrator to an allegation of any form of discrimination is critical. The supervisor/manager/administrator conducting an investigation into such allegations should:
 - (a) act promptly and document all actions taken in response to the complaint.
 - (b) be neutral. S/he should simply gather facts without making judgments or commenting about the employee's allegations. There are two sides to every story.
 - (c) get the answers to "who, what, when, where, why, and how", seeking specifics, regardless of how embarrassing such conversations may be.
 - (d) treat the claim as valid, even if it appears frivolous, until it is established otherwise.
 - (e) limit the number of persons who have access to this information and advise the complainant that the facts will not be discussed with anyone who does not need to know them.
 - (f) explain to the complainant that the charges are serious and that the Department will conduct a thorough investigation before reaching any conclusion.
 - (g) avoid making any statements relative to the accuser's character, job performance, and/or family life.
 - (h) find out what the complainant wants and how s/he wants the situation resolved.

NOTE: The Equal Employment Opportunity/Affirmative Action Interview Guide, found at Attachment 2, should be used by the

supervisor/manager/administrator conducting an investigation into allegations of any form of discrimination.

h. Resolving Internal Complaints

- (1) If the investigating official determines that based on reasonable belief, the **allegations are true**, and the facts show that the behavior in question met the definition of discrimination as defined in RIDOC policy(ies), swift and appropriate action should be taken, to include progressive discipline.
- (2) There may be occasions where it is **not possible to determine whether the allegations are true or untrue**, and thus insufficient evidence exists to support a complaint. In such situations, the investigating official must document that the:
 - (a) complaint was responded to;
 - (b) complaint was investigated;
 - (c) accused was warned about the severity and consequences of such alleged conduct;
 - (d) complainant was notified via outcome letter.
- (3) Another possible finding would include a conclusion that the **accusation was false**, that the complainant acted in bad faith by either knowing the allegation was false or by recklessly filing the complaint.
 - (a) In such cases, the supervisor/manager/administrator shall evaluate the facts of the situation to determine whether disciplinary action against the complainant is warranted.
- (4) The investigating official drafts a full report, to include the following:
 - (a) alleged incident(s) of discrimination;

- (b) response of accused to the complaint;
 - (c) details of the investigation, including the names of all interviewees, what each interviewee said, and how each acted;
 - (d) supporting documentation, including signed reports from complainant, accused, and witness(es);
 - (e) conclusions on whether or not discrimination or a false accusation occurred.
- (5) Copies of the full report are forwarded to the Director, affected Assistant Director(s), and Associate Director of Human Resources.
- (a) The impacted employees (complainant and accused) receive outcome letters from the Associate Director of Human Resources or designee.

i. **Alternative Methods of Resolution**

- (1) Not all incidents of alleged discrimination will be resolved at the investigating official's level. In such cases, the Associate Director of Human Resources will review all information/materials submitted by the investigating official and:
- (a) refer the matter back to the supervisor/manager/administrator if the information is incomplete or indicates the investigating official did not fulfill his/her responsibilities with respect to investigation and/or documentation; or
 - (b) refer the matter to the Dispute Resolution Coordinator for appropriate action. See policy 9.47-1 DOC, Workplace Conflict/Violence, or its successor, for detailed information relative to dispute resolution.

6. External Complaints

- a. Once a complainant files a formal complaint with an external agency (such as the RI Commission for Human Rights), that external agency notifies RIDOC of the complaint, and RIDOC cooperates with the external agency in an attempt to resolve the issue. The external agency is the higher authority relative to the final legal resolution of the complaint. Any communications relative to the filing of external complaints shall be forwarded to RIDOC's Office of Legal Counsel.
- b. Said complaint may be filed formally with any one of the following agencies external to the Department:
 - (1) The Rhode Island Department of Administration's State Equal Opportunity Office, One Capitol Hill, Providence, Rhode Island, 02908 within ten (10) working days from the knowledge of the alleged incident of discrimination, unless the discrimination is ongoing.
 - (a) Complainant files by completing the Office of Personnel Administration's Complaint Information Form, RIEOO-03-87 Revised 1993 (Attachment 3), available from the State Equal Opportunity Office or the Department's Office of Human Resources.
 - (2) The Rhode Island Commission for Human Rights, 180 Westminster Street, 3rd Floor, Providence, Rhode Island, 02903 (401) 222-2661.
 - (a) Complainant contacts the Commission for Human Rights via telephone. An Information Officer takes the complaint over the telephone and forwards a Discrimination Questionnaire to the complainant.
 - (3) The Federal Equal Employment Opportunity Commission (EEOC), Boston Area Office, JFK Federal Building, Room 475, Boston, Massachusetts, 02203 (617) 565-3200.
 - (a) Complainant may file charge(s) in person, by mail, or by telephone.

G. Americans with Disabilities/Vietnam Era Veterans:

1. As provided for in the Americans with Disabilities Act of 1990, RIGL §28-5.1 et seq. Executive Order 92-9, and the Veterans' Employment Emphasis Under Federal Contracts, the Department is further firmly committed to equal opportunity/affirmative action concepts for qualified persons with disabilities, disabled veterans, and Vietnam Era Veterans. RIDOC also provides equal and accessible services to all persons including persons with disabilities.

2. Recruitment of Individuals with Disabilities and Vietnam Era Veterans:

RIDOC continues to take affirmative steps in the recruitment of individuals with disabilities and Vietnam Era Veterans, in accordance with State Merit System Law and State Personnel Rules and Regulations, by sending all job postings to agencies and organizations which serve these populations.

3. Reasonable Accommodations:

It is the policy of the RIDOC to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment in accordance with Personnel Rule 3.096 regarding Reasonable Accommodations (Attachment 4).

- a. The State Office of Personnel Administration has designated RIDOC's Human Resources Coordinator as ADA Coordinator. The ADA Coordinator is responsible for the implementation of Personnel Rule 3.096 within the Department.

- b. Requesting Reasonable Accommodation

- (1) In accordance with Personnel Rule 3.096, Reasonable Accommodations, applicants who seek reasonable accommodation during the interview and selection process must contact RIDOC's ADA Coordinator and explain their need for accommodation at least five (5) business days prior to the interview or other activity at which they would need the accommodation. (See policy #3.06-2 DOC, Selection, Retention, and Promotion, or its successor.)

- (2) Applicants who seek a reasonable accommodation and who have been extended a "conditional offer of employment" by the Department, when accepting that offer, shall be given a "Reasonable Accommodation Request" Form (CS-388A) (Attachment 5) by Human Resources Support Staff to complete and return to the Human Resources Support Staff member. (See policy #3.06-2 DOC, Selection, Retention & Promotion, or its successor.) Human Resources Support Staff forward the completed request to the Department's ADA Coordinator and place a copy of this form in the position work file.
- (3) Current employees who seek reasonable accommodation, including those collecting Workers' Compensation benefits, may obtain a "Reasonable Accommodation Request" form (CS-388A), from the Department's ADA Coordinator or from the Department's Personnel Office. The completed form must be returned to the ADA Coordinator for processing. A copy is placed in the employee's medical file.
- (4) Current employees who are/or have been collecting Workers' Compensation benefits and wish to return to work and need a reasonable accommodation must obtain a "Reasonable Accommodation Request" form (CS-388A), from the Department's ADA Coordinator or Personnel Office. The employee must return the completed form to the Department's ADA Coordinator or to the Department's Personnel Office. Human Resources Support Staff forward the completed request to the Department's ADA Coordinator and place a copy of the completed form in the employee's medical file.

c. Procedures to Determine Reasonable Accommodation

- (1) The ADA Coordinator and the employee's immediate supervisor (or applicant's prospective immediate supervisor) meet, look at the particular job involved, and determine the job's purpose and its essential functions.
- (2) The employee/applicant identifies, to the agency's ADA Coordinator and supervisor, his/her specific abilities and

limitations as they relate to the essential job functions, identifies the barriers to job performance, and assesses how these barriers could be overcome with an accommodation.

- (3) In consultation with the employee/applicant, the agency's ADA Coordinator and supervisor identify potential accommodations and assess how effective each would be in enabling the employee/applicant to perform the essential job functions. If this consultation does not identify an appropriate accommodation, it is the responsibility of the ADA Coordinator to contact the Department of Human Services' Office of Rehabilitative Services, 40 Fountain Street, Providence, RI, to seek technical assistance.
- (4) If there are several effective accommodations that would provide equal employment opportunity, the ADA Coordinator must consider the preference of the employee/applicant and select the accommodation that best serves the needs of both the employee/applicant and the Department.
- (5) If more than one accommodation would be effective, or if the employee/applicant would prefer to provide his/her own accommodation, the ADA Coordinator may give the employee/applicant's preference first consideration. However, the State is free to choose among effective accommodations and may choose one that is less expensive or easier to provide.
 - (a) Should the employee/applicant for any reason be unable or unwilling to continue to provide the accommodation, s/he shall notify the Department's ADA Coordinator or Human Resources Support Staff, who will notify the Department's ADA Coordinator. The ADA Coordinator shall initiate discussion with the employee/applicant and the immediate supervisor to determine reasonable accommodation to be provided by the Department.

d. Purchase of Equipment or Devices (Auxiliary Aids)

If the accommodation requires obtaining equipment or devices (auxiliary aids), the ADA Coordinator:

- (1) Contacts the Governor's Commission on the Handicapped (Central ADA Equipment Pool) to determine if equipment in the pool meets the need of the employee/applicant. If the equipment is available, the ADA Coordinator arranges to have that equipment assigned to the employee/applicant.
- (2) Determines the cost of purchase or modifying the equipment. If the cost is more than the Department is authorized to spend, the ADA Coordinator forwards a request, in writing, to obtain or modify equipment/devices to the Chairperson, ADA Equipment Subcommittee, Governor's Commission on the Handicapped. The Equipment Subcommittee reviews the request with all concerned persons: the employee/applicant; appropriate agency personnel; and the Office of Rehabilitative Services. If there is agreement by all parties, the ADA Equipment Subcommittee arranges for its purchase. The state Central ADA Equipment Pool (and not the Department) obtains or modifies equipment or devices.
- (3) Purchases or modifies equipment that will cost less than the Department is authorized to spend.

e. Use of the Auxiliary Aid (Equipment or Devices)

- (1) The auxiliary aid is used by the employee while the employee/applicant is employed by the Department, or until the employee's job can no longer be accommodated with that auxiliary aid.
- (2) If the auxiliary aid was purchased by the Department (and not the State Central ADA Equipment Pool) and the employee transfers to another state job, not under the control of the Department which purchased the auxiliary aid, the purchasing agency arranges for the auxiliary aid to be declared "surplus property" in accordance with state surplus property regulations and transfers title of that auxiliary aid to

the new employing agency. The original agency is reimbursed by the new employing agency for the current value of the auxiliary aid.

- (3) If the auxiliary aid was purchased by the state Central ADA Equipment Pool (and not the Department) and the employee transfers to another job in another state agency, the Department's ADA Coordinator notifies the Governor's Commission on the Handicapped's Central ADA Equipment Pool that the employee and the auxiliary aid have been transferred to the new agency.

- (a) The ADA Coordinator makes arrangements with the new employing agency's ADA Coordinator to physically transfer the auxiliary aid.

- (4) If the auxiliary aid was purchased by the state Central ADA Equipment Pool and the employee leaves state employment, the Department's ADA Coordinator arranges to have the auxiliary aid transferred to the Central ADA Equipment Pool.

- (5) If the auxiliary aid was purchased by the Department and the employee leaves state employment, the ADA Coordinator arranges for the auxiliary aid to be declared "surplus property" and transfers title of that auxiliary aid to the Central ADA Equipment Pool.

f. Alteration of Facilities for Reasonable Accommodation

- (1) If the accommodation requires making facilities "readily accessible to and usable by" the employee/applicant and costs more than the amount the Department is authorized to purchase through a direct purchase order, the state Handicapped Accessibility Renovation Program (and not the agency) makes those renovations or alternations. The ADA Coordinator requests such in writing to the Chairperson, Standing Committee on Accessibility, and Governor's Commission on the Handicapped.
- (2) If the accommodation requires making facilities "readily accessible to and usable by" the employee/applicant and

costs less than the amount the agency administrator is authorized to purchase through a direct purchase order, the Department (and not the state Handicapped Accessibility Renovation Program) makes those renovations or alterations. The ADA Coordinator is responsible for coordinating and purchasing such alterations.

g. Consultation with Collective Bargaining Unit Representatives

(1) If the accommodation requires restructuring a job by reallocation or redistribution of marginal job functions; OR altering when or how an essential job function is performed; OR reassignment to a vacant position within the control of the agency; AND a collective bargaining agreement would be affected by that reasonable accommodation, the Department's ADA Coordinator, the Associate Director of Human Resources or designee, and the employee shall consult with representatives of the affected collective bargaining unit before implementing the accommodation.

(a) The Associate Director or designee notifies the Department of Administration's Office of Labor Relations of any reasonable accommodations that affect existing collective bargaining agreements.

h. Process to Resolve Disagreements With Regard to the Provision of Reasonable Accommodation

(1) Applicants and employees who disagree with the ADA Coordinator's recommendations regarding the type of reasonable accommodation to be provided may appeal the ADA Coordinator's decision.

(a) If and when the ADA Coordinator determines that no agreement will be reached to the applicant/employee's satisfaction, or upon the applicant/employee's request, the ADA Coordinator provides the applicant/employee with form CS-388B, "Reasonable Accommodation Appeal" (Attachment 6). The applicant/employee returns the completed CS-388B to the ADA Coordinator. The ADA Coordinator contacts

the Administrator of the Office of Rehabilitative Services, Department of Human Services, to arrange for a job analysis to be performed by the Office of Rehabilitative Services or their approved vendor. The results of that job analysis are presented to the applicant/employee within sixty (60) calendar days of the appeal of the ADA Coordinator's decision by the Office of Rehabilitative Services (DHS).

1. If the results of the job analysis demonstrate that the ADA Coordinator's recommendation would not enable the employee to perform the essential functions of the job, the ADA Coordinator arranges for the reasonable accommodation recommended by the Office of Rehabilitative Services or their vendor.
2. If the results of the job analysis demonstrate that the ADA Coordinator's recommendation would provide an effective accommodation that would provide equal employment opportunity, the ADA Coordinator arranges for that reasonable accommodation.

i. Establishing Job-Related Qualification Standards

- (1) The ADA does not restrict an employer's authority to establish needed job qualifications, including requirements related to:
 - (a) Education;
 - (b) Skills;
 - (c) Work experience;
 - (d) Licenses or Certification;
 - (e) Physical and mental abilities;
 - (f) Health and safety; or

- (g) Other job-related requirements, such as judgment, ability to work under pressure and interpersonal skills.
- (2) An employer may establish physical or mental qualifications that are necessary to perform specific jobs (for example, jobs in the transportation and construction industries; police and firefighter jobs; security guard jobs) or to protect health and safety. However, as with other job qualification standards, if physical or mental qualification standards screen out an individual with a disability or a class of individuals with disabilities, the employer must be prepared to show that the standard is:
 - (a) job-related; and
 - (b) consistent with business necessity.

**Rhode Island Department of Corrections
EQUAL OPPORTUNITY ADVISORY COMMITTEE**

APPLICATION FORM

The Equal Opportunity Advisory Committee is dedicated to establishing the Rhode Island Department of Corrections as an area of equal opportunity for all employees.

The Committee appreciates and values your interest in the future of this Department.

Be advised that as a Committee member, you will be asked to attend Committee meetings in addition to submitting reports to the Committee at various times.

Please complete the information listed below. You will be notified when to attend a Committee meeting.

INFORMATION

NAME: _____ DATE: _____

POSITION: _____

WORK TELEPHONE #: _____

Please give a brief description of reason(s) why you desire to become a Committee member:

Contact Person: George Truman
Associate Director, Human Resources
39 Howard Avenue
462-5122

RHODE ISLAND DEPARTMENT OF CORRECTIONS

**EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION
INTERVIEW GUIDE**

Interview with the Employee (Complainant)

A supervisor/manager conducting an interview with the employee (complainant) should inform the employee that his/her written report is a required component of this process/investigation and then inquire and ascertain the following:

- What happened?
What was said or done by whom which gave rise to the complaint?
- When and where did the alleged offense take place?
How long a period of time elapsed between the alleged offense and the complaint?
Was it during working hours, on break, at lunch, on or off the work premises?
- Has the alleged offense occurred before?
When and where?
Has the complainant complained in the past about similar alleged occurrences?
If so, what were the circumstances?
- Were there any witnesses?
If so, who are they?
Interview and obtain written statements from all witnesses identified by the complainant and/or the accused.
- What did complainant do or say before and after the alleged offense?
- Did the complainant's supervisor know, or should the supervisor have known, of the alleged offense or of previous occurrences?
- How did the alleged offense affect the complainant?

Interview with the Accused

A supervisor/manager conducting an interview with the accused should meet privately with the accused and inform him/her of the details of the complaint. (See policy # 3.22 DOC, Union Representation in Employee Investigatory Interviews, or its successor.) The supervisor/manager should inquire and ascertain the following:

- What is the accused's response to the charge?
 - If the accused admits the conduct alleged in the complaint and agrees the statement is accurate, the investigating supervisor/manager shall finish the interview, direct the

employee (accused) to submit a written report/statement, and take appropriate action, including disciplinary measures.

- If the accused denies the allegations or has a different description of the incident, the investigating supervisor/manager shall take a complete statement from the accused, using the questions posed to the complainant (found on the previous page) as a guide.

DEPARTMENT OF ADMINISTRATION
DIVISION OF HUMAN RESOURCES
Office of Personnel Administration
Equal Opportunity

3.03-3 DOC
Attachment 3
Page 1 of 2

COMPLAINT INFORMATION FORM

1. Complainant Information:

State your name and address:

City State Zip Code

Telephone Number (s):

Work: _____

Home: _____

2. Name of Department:

3. Name of Immediate Supervisor:

4. Respondent Information:

Name and address of agency involved:

City State Zip Code

5. Name and Title of person(s) charged:

6. Date of Alleged Violation:

7. Place of Alleged Violation:

8. Basis of Alleged Complaint:

Race/Color: Specify _____

Sex: Male Female

Age: Date of Birth _____

National Origin: Specify _____

Religion: Specify _____

Sexual Harassment _____

Sexual Orientation _____

9. Nature of Charge:

Hiring _____

Compensation _____

Job Classification _____

Discharge/Termination _____

Promotion _____

Training _____

Demotion _____

Qualification/Testing _____

Layoff _____

Recall _____

Seniority _____

Intimidation/Reprisal _____

Harassment _____

(_____)
Case Number

COMPLAINT INFORMATION FORM

(Continued)

3.03-3 DOC
Attachment 3
Page 2 of 2

10. Explain as briefly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. Also attach any written material pertaining to your case.

11. Why do you believe these events occurred?

12. Have you brought this charge to anyone else's attention?

13. Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint.

Complainant Signature

Date

Interviewing Officer

3.096 REASONABLE ACCOMMODATION RULE

I. STATEMENT OF PURPOSE

It is the policy of the State of Rhode Island to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. The State of Rhode Island will adhere to all applicable federal and state laws, regulations and guidelines with respect to providing reasonable accommodations as required to afford equal opportunity to qualified persons with disabilities. Reasonable accommodations shall be provided in a timely and cost-effective manner.

II. REQUESTING A REASONABLE ACCOMMODATION

(a) For applicants who are seeking a reasonable accommodation during the interview and selection process, they contact the agency's appointing authority, personnel officer, or ADA Coordinator and explain their need for an accommodation at least five (5) business days prior to the interview or other activity at which they would need the accommodation.

(b) For applicants who have been extended a "conditional offer of employment" by the state, when accepting that offer, shall complete the "Reasonable Accommodation Request" Form (CS-388A) and return it to the appointing authority, or her/his designee who will forward it to the agency's ADA Coordinator.

(c) For current employees (including those collecting workers compensation benefits), they contact their agency's ADA Coordinator and complete the "Reasonable Accommodation Request" Form (CS-388A). The ADA Coordinator may assist the employee complete this form.

III. PROCEDURES FOR ACCOMMODATING EMPLOYEES WITH DISABILITIES

State agencies must follow the procedures for determining the appropriate accommodation and implementing that accommodation contained in the State of Rhode Island Personnel Policy Manual.

REASONABLE ACCOMMODATION REQUEST FORM

(Please forward initially to the ADA Coordinator of your Agency)

3.03-3 DOC
Attachment 5
Page 1 of 2

Name: _____ Day Phone # (VOICE) _____
Please print - Last Name, First Name, M I (TDD/TT) _____
Soc Sec Number _____

Current Title in State Government (if applicable): _____

Classification Title (Offered): _____

I am an applicant/employee for the position named above and may require a "reasonable accommodation" to perform the essential function(s) of the job. I hereby request that the ADA Coordinator and/or other individuals identified in the Reasonable Accommodation Policy of the State of Rhode Island contact me regarding this need for reasonable accommodations and authorize them to verify this request. I do hereby waive my rights of confidentiality of information (medical/personnel or otherwise) so that pertinent information will be forwarded to other departments for processing. I understand that I have a right to appeal the decision of the ADA Coordinator noted below. Upon appeal, a job analysis, by the Office of Rehabilitative Services or its designated vendor, will be completed and a recommendation made within 60 calendar days of the receipt of such request.

PLEASE DESCRIBE BELOW THE ACCOMMODATION YOU MAY NEED: _____

I AUTHORIZE _____ TO RELEASE MY MEDICAL RECORDS TO VERIFY MY NEED FOR
(Health Professional's Name) A REASONABLE ACCOMMODATION DUE TO MY DISABILITY.

Health Professional's Name: _____ Phone #: _____
Address: _____

Applicant/Employee Signature

Date

Union Official Signature/Title (if necessary)

Date

DO NOT WRITE BELOW THIS LINE

1. Agency ADA Coord./Appt. Auth. Response: ☐ Approved ☐ Not Needed ☐ Denied

Authorized Name (Print)

Authorized Signature

Date

2. Office of Rehabilitative Services Response: ☐ Approved ☐ Not Needed ☐ Denied

Authorized Name (Print)

Authorized Signature

Date

3. ADA Equipment Committee Response: ☐ Approved ☐ Not Needed ☐ Denied

Authorized Name (Print)

Authorized Signature

Date

4. If Workers' Compensation Disability:

Workers' Compensation Response:

☐ Approved

☐ Not Needed

☐ Denied

Authorized Name (Print)

Authorized Signature

Date

PLEASE COMPLETE REVERSE SIDE ONCE ACCOMMODATION HAS BEEN APPROVED

Description of Approved Reasonable Accommodation

3.03-3 DOC
Attachment 5
Page 2 of 2

APPROVED BY:
Appointing Authority

Name (Please Print)

Agency (Please Print)

Signature

Date

ACCEPTED BY:
Employee/Applicant

Name (Please Print)

Signature

Date

Union Official Signature/Title (if necessary)

Forward a copy of the Approved Reasonable Accommodation Form to:

State ADA Coordinator
Governor's Commission on the Handicapped
555 Valley Street, Bldg. 51
Providence, R.I. 02908-5686

EACH SIGNATORY MUST RECEIVE A SIGNED ORIGINAL

REASONABLE ACCOMMODATION APPEAL FORM

Name: _____ Day Phone #: (VOICE) _____
Please print-Last Name, First Name, Middle Initial (TDD/TT) _____

Social Security Number: _____

Current Classification Title (If Applicable): _____

Classification Title (Offered): _____

I wish to appeal the decision rendered by the ADA Coordinator concerning my need for reasonable accommodation(s) to perform the essential functions of the class identified herein. It is my request that a Job Analysis be undertaken, by the Office of Rehabilitative Services (ORS) or its designated vendor, to determine the appropriate accommodation.

Applicant / Employee Signature

Date

Union Official Signature / Title (if necessary)

----- DO NOT WRITE BELOW THIS LINE -----

Office of Rehabilitative Services / Vendor:

Job Analysis Results: (additional sheets may be attached)

Accommodation Suggested: (additional sheets may be attached)

Analyst Name (please print)

Analyst Signature

Agency / Vendor Name (please print)

Received _____ Date _____
NOV 26 2002

Secretary of State
Administrative Records

Attach this form to the Reasonable Accommodation Request Form.